

REFERENCE TITLE: judicial appointment commissions; chief justice

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SCR 1013

Introduced by
Senator Gray C

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 36 AND 41, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article VI, sections 36 and 41, Constitution of Arizona, are proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

36. Commission on appellate court appointments and terms, appointments and vacancies on commission

Section 36. A. There shall be a nonpartisan commission on appellate court appointments which shall be composed of the chief justice of the supreme court, who shall be ~~chairman~~ A NONVOTING MEMBER, five attorney members, who shall be nominated by the board of governors of the state bar of Arizona and appointed by the governor with the advice and consent of the senate in the manner prescribed by law, and ten nonattorney members who shall be appointed by the governor with the advice and consent of the senate in the manner prescribed by law. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for appellate court appointments, the governor shall appoint a nominating committee of nine members, not more than five of whom may be from the same political party. The makeup of the committee shall REFLECT, to the extent feasible, ~~reflect~~ the diversity of the population of the state. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment.

B. Attorney members of the commission shall have resided in the state and shall have been admitted to practice before the supreme court for not less than five years. Not more than three attorney members shall be members of the same political party and not more than two attorney members shall be residents of any one county. Nonattorney members shall have resided in the state for not less than five years and shall not be judges, retired judges or admitted to practice before the supreme court. Not more than five nonattorney members shall be members of the same political party. Not more than two nonattorney members shall be residents of any one county. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit, and no attorney member shall be eligible for appointment to any judicial office of the state until one year after he ceases to be a member. Attorney members of the commission shall serve staggered four-year terms and nonattorney members shall serve

1 staggered four-year terms. Vacancies shall be filled for the
2 unexpired terms in the same manner as the original appointments.

3 ~~B.~~ C. No person other than the chief justice shall serve
4 at the same time as a member of more than one judicial
5 appointment commission.

6 ~~C.~~ D. In making or confirming appointments to the
7 appellate court commission, the governor, the senate and the
8 state bar shall endeavor to see that the commission reflects the
9 diversity of Arizona's population.

10 ~~In the event of the absence or incapacity of the chairman~~
11 ~~the supreme court shall appoint a justice thereof to serve in~~
12 ~~his place and stead.~~

13 E. THE COMMISSION SHALL SELECT A CHAIRPERSON FROM AMONG
14 THE COMMISSION'S MEMBERSHIP, EXCEPT THAT THE CHIEF JUSTICE SHALL
15 NOT BE THE CHAIRPERSON.

16 ~~D.~~ F. ~~Prior to~~ BEFORE making recommendations to the
17 governor ~~as hereinafter provided~~, the commission shall conduct
18 investigations, hold public hearings and take public testimony.
19 An executive session as prescribed by rule may be held upon a
20 two-thirds vote of the members of the commission in a public
21 hearing. Final decisions as to recommendations shall be made
22 without regard to political affiliation in an impartial and
23 objective manner. The commission shall consider the diversity
24 of the state's population, however the primary consideration
25 shall be merit. Voting shall be in a public hearing. The
26 expenses of meetings of the commission and the attendance of
27 members ~~thereof~~ for travel and subsistence shall be paid from
28 the general fund of the state as state officers are paid, upon
29 claims approved by the ~~chairman~~ CHAIRPERSON.

30 ~~E.~~ G. After public hearings the supreme court shall
31 adopt rules of procedure for the commission on appellate court
32 appointments.

33 ~~F. Notwithstanding the provisions of subsection A, the~~
34 ~~initial appointments for the five additional nonattorney members~~
35 ~~and the two additional attorney members of the commission shall~~
36 ~~be designated by the governor for staggered terms as follows:~~

37 ~~1. One appointment for a nonattorney member shall be for~~
38 ~~a one-year term.~~

39 ~~2. Two appointments for nonattorney members shall be for~~
40 ~~a two-year term.~~

41 ~~3. Two appointments for nonattorney members shall be for~~
42 ~~a three-year term.~~

43 ~~4. One appointment for an attorney member shall be for a~~
44 ~~one-year term.~~

~~5. One appointments for an attorney member shall be for a two year term.~~

~~G. The members currently serving on the commission may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.~~

41. Superior court divisions; commission on trial court appointments; membership; terms

A. Except as otherwise provided, judges of the superior court in counties having a population of two hundred fifty thousand persons or more according to the most recent United States census shall hold office for a regular term of four years.

B. There shall be a nonpartisan commission on trial court appointments for each county having a population of two hundred fifty thousand persons or more according to the most recent United States census which shall be composed of the following members:

1. The chief justice of the supreme court, who shall be ~~the chairman~~ A NONVOTING MEMBER of the commission. ~~In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.~~

2. Five attorney members, none of whom shall reside in the same supervisorial district and not more than three of whom shall be members of the same political party, who are nominated by the board of governors of the state bar of Arizona and who are appointed by the governor subject to confirmation by the senate in the manner prescribed by law.

3. Ten nonattorney members, no more than two of whom shall reside in the same supervisorial district.

C. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a nonattorney member on the commission for trial court appointments, the member of the board of supervisors from the district in which the vacancy has occurred shall appoint a nominating committee of seven members who reside in the district, not more than four of whom may be from the same political party. The ~~make-up~~ MAKEUP of the committee shall REFLECT, to the extent feasible, ~~reflect~~ the diversity of the population of the district. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for appointment. The governor shall appoint two

persons from each supervisorial district who shall not be of the same political party, subject to confirmation by the senate in the manner prescribed by law.

D. In making or confirming appointments to trial court commissions, the governor, the senate and the state bar shall endeavor to see that the commission reflects the diversity of the county's population.

E. Members of the commission shall serve staggered four year terms. ~~, except that initial appointments for the five additional nonattorney members and the two additional attorney members of the commission shall be designated by the governor as follows:~~

~~1. One appointment for a nonattorney member shall be for a one-year term.~~

~~2. Two appointments for nonattorney members shall be for a two-year term.~~

~~3. Two appointments for nonattorney members shall be for a three-year term.~~

~~4. One appointment for an attorney member shall be for a one-year term.~~

~~5. One appointment for an attorney member shall be for a two-year term.~~

F. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

G. Attorney members of the commission shall have resided in this state and shall have been admitted to practice in this state by the supreme court for at least five years and shall have resided in the supervisorial district from which they are appointed for at least one year. Nonattorney members shall have resided in this state for at least five years, shall have resided in the supervisorial district for at least one year before being nominated and shall not be judges, retired judges ~~nor~~ OR admitted to practice before the supreme court. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit and no attorney member is eligible for appointment to any judicial office of this state until one year after membership in the commission terminates.

H. No person other than the chief justice shall serve at the same time as a member of more than one judicial appointment commission.

I. THE COMMISSION SHALL SELECT A CHAIRPERSON FROM AMONG THE COMMISSION'S MEMBERSHIP, EXCEPT THAT THE CHIEF JUSTICE SHALL NOT BE THE CHAIRPERSON.

~~I.~~ J. The commission shall submit the names of not less than three individuals for nomination for the office of the superior court judge pursuant to section 37 of this article.

~~J.~~ K. ~~Prior to~~ BEFORE making recommendations to the governor, the commission shall conduct investigations, hold public hearings and take public testimony. An executive session as prescribed by rule may be held upon a two-thirds vote of the members of the commission in a public hearing. Final decisions as to recommendations shall be made without regard to political affiliation in an impartial and objective manner. The commission shall consider the diversity of the county's population and the geographical distribution of the residences of the judges throughout the county, however the primary consideration shall be merit. Voting shall be in a public hearing. The expenses of meetings of the commission and the attendance of members ~~thereof~~ for travel and subsistence shall be paid from the general fund of the state as state officers are paid, upon claims approved by the ~~chairman~~ CHAIRPERSON.

~~K.~~ L. After public hearings the supreme court shall adopt rules of procedure for the commission on trial court appointments.

~~L. The members of the commission who were appointed pursuant to section 36 of this article prior to the effective date of this section may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.~~

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.